

VERN K. JONES ET AL.

IBLA 76-654

Decided August 4, 1976

Appeal from decision of the Utah State Office, Bureau of Land Management, requiring execution of "no surface occupancy" stipulations as a condition precedent to issuance of oil and gas leases on offers U-30801 through U-30806 and U-30808 through U-30810.

Set aside and remanded.

1. Environmental Quality: Generally -- Oil and Gas Leases: Generally -- Oil and Gas Leases: Applications: Generally -- Oil and Gas Leases: Consent of Agency -- Oil and Gas Leases: Discretion to Lease -- Oil and Gas Leases: Stipulations

The Secretary of the Interior may require execution of special stipulations reasonably designed to protect environmental and other land use values as a condition precedent to the issuance of an oil and gas lease. But where a State Office of the Bureau of Land Management seeks to impose a "no surface occupancy" stipulation, the most stringent of stipulations, without a showing that it has considered less stringent stipulations, the decisions will be set aside. Where the stated basis for the imposition of the stipulation is the threat of oil and gas activities to automobile racing, the decision will be set aside particularly where the lease offers include land primarily outside the boundaries of the racing grounds withdrawal.

APPEARANCES: John W. Coughlin, Esq., and James D. Voorhees, Esq., Moran, Reidy & Voorhees, Denver, Colorado, for appellant.

OPINION BY ADMINISTRATIVE JUDGE FISHMAN

Vern K. Jones, Esdras K. Hartley, and Impel Corporation appeal from a decision of the Utah State Office, Bureau of Land Management (BLM), dated April 19, 1976, requiring execution of "no surface occupancy" stipulations as a condition precedent to issuance of oil and gas leases insofar as they would include land within the Bonneville Salt Flats. ^{1/} Referring to an oil and gas environmental analysis prepared for lands within the area administered by the Salt Lake District Office, the State Office's decision gives the following reasons for requiring a "no surface occupancy" stipulation:

The analysis describes the Bonneville Salt Flats located on the western edge of the Great Salt Lake Desert near Wendover, Utah, as unique in manner of origin, physical and chemical character, location, history and use. This area, which occupies approximately 26,000 acres, exhibits an extremely harsh environment. The area is covered with a hard salt crust ranging from four feet to less than one inch at the edges. Underlying the salt is several hundred feet of briney clay deposited in ancient Lake Bonneville. There are virtually no resident plants or animals due to the saline environment. Surveys have concluded that the only life in the central Salt Flat area are a few species of bacteria.

^{1/} The decision rejected each listed offer insofar as it included the designated lands:

- U-30801: T. 1 N., R. 17 W., SLM, Utah
 Secs. 1, and 3, all;
 Sec. 4, lots 1, 2, S1/2 NE1/4, S 1/2.
- U-30802: Sec. 8, NE 1/4, S 1/2;
 Sec. 9, all.
- U-30803: Secs. 10, 11 and 12, all;
 Sec. 13, W 1/2.
- U-30804: Secs. 14, 15, and 17, all;
 Sec. 18, lots 3, 4, E 1/2, E 1/2 SW 1/4. U-30805: Sec.
- 22, N 1/2, SE 1/4;
 Sec. 23, all.
- U-30806: Sec. 26, W 1/2;
 Sec. 27, E 1/2 E 1/2;
 Sec. 34, E 1/2 E 1/2;
 Sec. 35, W 1/2.
- U-30808: T. 1 N., R. 18 W., SLM, Utah
 Sec. 24, NE 1/4, S 1/2.
- U-30809: Sec. 25, all;
 Sec. 26, NE 1/4, S 1/2.
- U-30810: Sec. 34, NE 1/4, S 1/2;
 Sec. 35, all.

The unique salt surface and flatness have made the Salt Flats well known with automotive speed enthusiasts throughout the world. Most of the land speed records have been set on the Salt Flats. Time trials for racing cars have been held there since the early 1930's, and in recent years timing events for a variety of other vehicles have also been held.

Roads and structures associated with oil and gas production would be incompatible with the Bonneville Speedway. Oil and gas activity could result in reduction of salt crust thickness or area, thus having an irreversible impact on this internationally significant resource. Roads, pipelines, and drill pads cutting across or blocking the race track, would make the racing of high speed motorcycles and cars impossible.

Much of the Salt Flats unique tourist attraction lies in the flat, barren seemingly lifeless expanse of salt. Any of the structures or roads associated with oil and gas activity would add an unnatural appearance to the Flats, detracting from its barren beauty.

The Salt Flats is an area where oil and gas leasing activities are not compatible with the primary management objective to prevent irreparable damage of a significant resource.

[1] Appellants acknowledge the discretionary authority of the Secretary of the Interior to issue oil and gas leases and to require the execution of special stipulations reasonably designed to protect environmental and other land use values. Bill J. Maddox, 17 IBLA 234 (1974); 43 CFR 3109.2-1. Appellants assert that the imposition of the stipulation in the instant case is unreasonable because it would unnecessarily deprive them of their rights under the oil and gas leases in question and because less onerous stipulations should be adequate to protect the lands in issue.

As indicated above, one of the reasons for imposing the stipulation is the need to protect the automobile racing grounds. We note, however, that except for a half-section of land noted infra, the areas for which the stipulation is proposed lie outside the boundaries of the area withdrawn for the racing grounds by Public Land Order 852, 17 F.R. 6100 (1952). 2/ Neither the decision below

2/ Of all of the land for which appellant applied, only offer U-30809 overlaps with the area withdrawn for auto testing grounds, and the overlap only consists of the E 1/2, sec. 25, T. 1 N., R. 18 W., SLM.

nor the environmental analysis explains how racing activities would be impaired by oil and gas activities outside the area withdrawn for automobile racing. Without any justification for imposing the stipulation beyond those boundaries, the stipulation cannot stand. Beverley Lasrich, 22 IBLA 202 (1975).

The only remaining stated reason for imposition of the stipulation is the need to protect the aesthetic values of the area, but the record does not indicate that the State Office considered whether less onerous stipulations would be adequate to protect scenic and other values. In addition, we recognize that the State Office seemingly endeavored to utilize a balancing process which weighed the benefits to be derived from oil and gas activities against the threat such activities pose to the racing grounds and to scenic values. But because the State Office did not indicate whether either factor alone would be sufficient to sustain its decision to impose "no surface occupancy" stipulations, and because the record as presently constituted does not support the view that the auto racing grounds would be affected by oil and gas activities on the land in appellant's offers, the case must be remanded to the State Office to reconsider the need for the stipulations with respect to the land involved in this appeal and to endeavor to formulate less stringent stipulations which would adequately protect the public interest. In order to have an adequate record for possible future consideration by the Board, the State Office should reflect in the file its detailed consideration of stipulations of a less stringent nature.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is set aside and the case remanded for further action consistent with this opinion.

Frederick Fishman
Administrative Judge

We concur:

Douglas E. Henriques
Administrative Judge

Anne Poindexter Lewis
Administrative Judge

